

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oysters standards and oysters selects since it was not thoroughly drained.

DISPOSITION: February 11, 1952. Default decree of condemnation and destruction.

FRUITS AND VEGETABLES*

CANNED FRUIT

19128. Misbranding of canned peaches. U. S. v. 48 Cases * * *. (F. D. C. No. 33240. Sample No. 18406-L.)

LIBEL FILED: May 20, 1952, District of Nevada.

ALLEGED SHIPMENT: On or about March 4, 1952, by Case-Swayne Co., Inc., from Santa Ana, Calif.

PRODUCT: 48 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Las Vegas, Nev.

LABEL, IN PART: "Santa Paula Ripe Elberta Sliced Yellow Freestone Peaches In Heavy Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (f), the information required by law to appear on the label, namely, a statement of the quantity of the contents, was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use since it appeared in small print on the rear panel of the label.

Further misbranding, Section 403 (g) (2), the product was canned peaches, a food for which a definition and standard of identity has been prescribed by regulations; and its label failed to bear, as required by the standard, the name of the optional packing medium present since the label bore the statement "In Heavy Syrup," whereas the product was packed in light sirup.

Further misbranding, Section 403 (h) (2), the product fell below the standard of fill of container for canned peaches, and its label failed to bear a statement that it fell below the standard.

DISPOSITION: August 15, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

JAMS, JELLIES, AND PRESERVES

19129. Adulteration and misbranding of red raspberry jelly and pineapple preserves. U. S. v. Pelton's Spudnuts, Inc. (Martens Co.). Plea of nolo contendere. Fine of \$100. (F. D. C. No. 32753. Sample Nos. 7489-L, 7490-L.)

*See also No. 19101.

INFORMATION FILED: July 21, 1952, Northern District of Ohio, against Pelton's Spudnuts, Inc., trading as the Martens Co., Cleveland, Ohio.

ALLEGED SHIPMENT: On or about July 10 and 13, 1951, from the State of Ohio into the State of Pennsylvania.

LABEL, IN PART: "Marco Pure Red Raspberry Jelly" and "Marco Pineapple Preserves."

NATURE OF CHARGE: Red raspberry jelly. Adulteration, Section 402 (b) (2), an article deficient in fruit juice and containing artificial coloring had been substituted for red raspberry jelly; and, Section 402 (b) (4), artificial coloring had been added to the product and mixed and packed with it so as to make it appear to be better or of greater value than it was. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for red raspberry jelly since it was made from a mixture composed of less than 45 parts by weight of the fruit juice ingredient, red raspberries, to each 55 parts by weight of one of the optional saccharine ingredients, and it contained artificial coloring, which is not permitted by the standard.

Pineapple preserves. Adulteration, Section 402 (b) (2), an article deficient in fruit and containing artificial coloring had been substituted for pineapple preserves; and, Section 402 (b) (4), artificial coloring had been added to the product and mixed and packed with it so as to make it appear to be better or of greater value than it was. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for pineapple preserves since it was made from a mixture composed of less than 45 parts by weight of the fruit ingredient, pineapple, to each 55 parts by weight of one of the optional saccharine ingredients, and it contained artificial coloring, which is not permitted by the standard.

DISPOSITION: October 17, 1952. A plea of nolo contendere having been entered, the court fined the defendant \$100.

19130. Adulteration and misbranding of jam. U. S. v. 48 Cases, etc. (F. D. C. No. 33181. Sample Nos. 35551-L to 35553-L, incl.)

LIBEL FILED: April 22, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about November 9, 1951, and February 1, 1952, by the Oelerich & Berry Co., from Chicago, Ill.

PRODUCT: 48 cases, each containing 12 2-pound jars, of strawberry-apple jam, and 18 cases, each containing 12 4-pound, 5-ounce pails, of assorted jams at Thief River Falls, Minn.

LABEL, IN PART: "Oelerich Nt. Wt. 2 Lbs. Fruit Maid Strawberry Apple Jam" or "Oelerich Net Weight 4 Lbs. 5 Oz. Fruit Maid Raspberry Apple [or "Grape Apple," "Strawberry Apple"] Jam."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), (48-case lot of strawberry-apple jam and portion of 18-case lot of raspberry-apple jam and grape-apple jam) products deficient in fruit had been substituted for strawberry-apple jam, raspberry-apple jam, and grape-apple jam.

Misbranding, Section 403 (g) (1), the products failed to conform to the definitions and standards of identity for strawberry-apple jam, raspberry-apple jam, and grape-apple jam since they were made from mixtures composed of less than 45 parts by weight of the fruit ingredient (strawberry-apple, raspberry-apple, or grape-apple) to each 55 parts by weight of one of the sweetening ingredients specified in the standard.